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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,215	04/03/2002	Peeter Pruuden	4925-172PUS	5555

7590 05/03/2005

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EXAMINER

ZEWDU, MELESS NMN

ART UNIT PAPER NUMBER

2683

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

hst

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/009,215	Applicant(s) PRUUDEN ET AL.	
	Examiner Meless N Zewdu	Art Unit 2683	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) a set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-47.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
The combined references teach about attaching a mobile station to one of a plurality of base stations so as to enable the mobile station communicate with another terminal on a first or second route wherein route selection is made based on, among other factors, route/link quality in a network that includes wireless and landline routes (see also attached detailed action).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

Response to AF Arguments

1. This action is in response to the communication filed on 4/20/05.
2. Claims 1-47 are pending in this action.
3. This is an advisory Action.

Remarks:

Regarding claims 1-47, applicant presents some arguments which examiner finds necessary to respond to.

Regarding claim 1, applicant argues by saying "Kito fails to teach or suggest "a routing unit for determining whether the first terminal unit is to communicate with the second terminal unit via the first or second base stations in dependence on factors that include quality of at least part of the first and second routes", as expressly recited in independent claim 1." But, examiner submits that the APA (see fig. 1 and background section) teaches a mobile communication system utilizing a handover technique wherein a mobile terminal can communicate with another terminal (first terminal) via a first base station (old base station) or a second base station (new base station) wherein the mobile network includes both landline route and wireless route for routing a call. As stated in the body of the rejection, the differences between the APA and the features of claim 1 are one, determining whether the first terminal is to be communicated with the

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second terminal unit via the first or second base station, which is taught by Kito (US 6,263,207 B1). Kito teaches that base station of a mobile station can be changed (see col. 3, lines 50-58). In other words, a mobile station can be caused to attach itself to a first or second base station, via the control of the exchange (fig. 1, element 11), which can be considered as being able to make routing decisions. Second, again as stated above, in the body of the rejection of the claims, the APA in view of Kito does not explicitly teach about factors that include quality of at least part of the first and second routes, a feature is which is taught by Strawczynski et al. (US 6,038,452) (see entire document, particularly, col. 5, lines 1-58; col. 8, line 53-col. 9, line 7; col. 10, lines 40-44). Besides, adjusting link parameters, Strawczynski et al. teaches link/path selection based on quality. Hence, examiner is of the opinion that the arguments are not persuasive. Applicant also raises another argument regarding claim 11, by saying "Gilbert fails to teach what APA, Kito and Strawczynski lack" in that he "fails to teach or suggest "determining whether the first terminal unit is to communicate with the second terminal unit via the first or second base station independence on factors that include the quality", as recited in independence claim 11. Examiner submits that Gilbert's reference is used to address the "estimating" feature in claim 11. But, applicant's argument against the reference of Gilbert seems to be no difference from the argument provided in claim 1. In that, the use of Gilbert in the rejection is to teach "estimating the quality of at least part of the first and second routes/links", as can be seen above. Applicant's argument regarding claim 11, is not directed to this feature. However, examiner believes that Gilbert teaches about estimating quality of a route/link as

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discussed in the body of the rejection above. Hence, this argument too is found not to be persuasive.

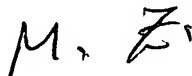
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N Zewdu whose telephone number is (571) 272-7873. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Meless Zewdu



Examiner

27 April 2005.



WILLIAM TROST
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